

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

**SECURITIES INVESTOR PROTECTION
CORPORATION,**

Plaintiff-Applicant,

v.

**BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,**

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

**Adv. Pro. No. 08-01789 (SMB)
SIPA Liquidation
(Substantively Consolidated)**

**DECLARATION IN
OPPOSITION TO THE
TRUSTEE'S MOTION TO
AFFIRM APPLICATION OF
THE NET INVESTMENT
METHOD TO THE
DETERMINATION OF
CUSTOMER TRANSFERS
BETWEEN BLMIS
ACCOUNTS**

I, BARBARA KOTLIKOFF HARMAN, declare pursuant to 28 U.S.C. § 1746, that the following is true based upon my personal knowledge and documents I possess:

1. On or about April 6, 1990, I opened an investment advisory account with Bernard L. Madoff ("Madoff"), bearing account No. 1-H0008 (the "Madoff Account"). Madoff had complete discretion to invest my money.

2. On or about June 9, 1997, when my account had a balance of \$273,398.74, Madoff informed me that he wanted to re-number the account and

that he was going to change his investment strategy. Thereafter, my Madoff Account bore number 1-H0099.

3. I am informed that, on December 4, 2000, Madoff formed Bernard L. Madoff Investment Securities LLC ("BLMIS"). However, my investment advisory relationship with Madoff continued as it had before that date.

4. Both of my in-laws, Toby Harman and Harry J. Harman, had accounts with Madoff. Toby Harman died in June 1998 with an account balance of approximately \$702,978.61. Her estate passed through probate and an estate tax return was filed. The funds in her account were transferred in September and October 1998 to two other Madoff accounts: \$620,000 was transferred to "The Toby Harman Trust" account and \$82,988.61 was transferred to the account of Harry J. Harman. These transfers are reflected in the May 24, 2010 Determination Letter from the Trustee to the Toby Harman Trust and in the July 16, 2010 Determination Letter from the Trustee to the Estate of Toby Harman. See Exhibits A at 4 and B at 4.

5. My father-in-law, Harry J. Harman, died in March 2003. His estate passed through probate and an estate tax return was filed. On April 15, 2003, the entire balance in his account, \$895,204.01, was transferred to the Madoff account in the name of "The Estate of Harry J. Harman." This transfer is reflected in the August 24, 2010 Determination Letter from the Trustee. See Exhibit C at 4.

6. As part of his inheritance from his father, my husband received \$421,188.41 from the Toby Harman Trust account with BLMIS and \$351,746.18 from the Harry J. Harman account with BLMIS. Both of these amounts were transferred by Laurence into my account on April 7, 2003 and December 31, 2003, respectively. These transfers are reflected in the May 19, 2010 Determination Letter from the Trustee. See Exhibit D at 4.

7. The balance in my account as of November 30, 2008 was \$1,802,563.77. See Exhibit E hereto. I filed a SIPC claim for that amount.

8. However, in his May 19, 2010 Determination Letter, the Trustee disallowed my claim entirely because he did not give me full credit for transfers into my account from June 9, 1997 through December 31, 2003. See Exhibit D at 4.

9. I declare under penalty of perjury that the aforesaid facts are true and correct.

May 14, 2014


Barbara Kotlikoff Harman